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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,127	02/23/2004	Kenneth R. Epstein	MB0008	1671

7590 07/13/2005

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EXAMINER

HOGUE, GARY CHAPMAN

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/785,127

Applicant(s)

EPSTEIN, KENNETH R.

Examiner

Gary C. Hoge

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/23/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is no antecedent basis for "said alligator clip". It appears that these claims were intended to depend from claim 15, rather than claim 1. For examination purposes, they are treated as if they depended from claim 15.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 8-10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wasilko (5,088,216) in view of Reimann (4,215,388) and *Chirpy Chick Card*.

Wasilko discloses display comprising a flower arrangement 16 and a card of sheet stock 12 in the flower arrangement. Reimann discloses a light display in the form of a button having a power source 44, at least one light emitting diode 26 driven by the power source to emit light; a switch 32 for closing or opening a circuit to turn the power source on and off; a housing 38 enclosing the light display, the housing having a front section with at least one aperture (Fig. 1), the at least one light emitting diode 26 extending through the at least one aperture to emit light;

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and a clamping means 34 attached to the housing. *Chirpy Chick Card* teaches that it was known in the art to attach a button to a card of sheet stock in order to give the button as a gift along with the card. It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the button disclosed by Reimann to the card of sheet stock disclosed by Wasilko, as taught by *Chirpy Chick Card* in order to give the button as a gift along with the card.

5. Claims 5-7, 11-13 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wasilko (5,088,216) in view of Reimann (4,215,388) and *Chirpy Chick Card*, as applied to claim 1, above, and further in view of Anderson (D441,687).

Wasilko, as modified, discloses the invention substantially as claimed, as set forth above. However, the light display disclosed by Reimann only has a pin attachment mechanism located at the center or top of the back of the display. Anderson teaches that it was known in the art to also provide a clamp-attachment at the bottom of such a display. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a clamp-attachment to the bottom of the display disclosed by Reimann, as taught by Anderson, in order to give the user more options for attaching the display to the card.

Regarding claims 6, 12 and 18, see Fig. 3 of Anderson.

Conclusion

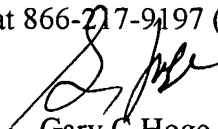
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary C Hoge
Primary Examiner
Art Unit 3611

gch